

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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UNITED STATES OF AMERICA		:
		:
Plaintiff,		:
		:
v.		:
		:
JOSEPH JAMES O’CONNOR		:
		:
Defendant.		:
		:
		:
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**DEFENDANT JOSEPH JAMES O’CONNOR’S MEMORANDUM ON
SENTENCING**

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INTRODUCTION

Every sentence must be tailored to the individual defendant and crimes of conviction. Here, the story of who Joseph O'Connor is, how he came to commit the crimes for which he will be sentenced, and the reasons this Court should sentence him to time served are one. Joseph's has been a sad story to date, following an easy-to-plot path from his birth to Your Honor's courtroom. It is also, however, a story that with equal predictability will end in a good place.

* * *

[REDACTED]. It is with this optimism for the future that Joseph has successfully obtained an offer of employment following his release, building positively on the skills with which he committed the crimes.

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2. Joseph's Background and Upbringing

Joseph's life can be divided into five phases: (a) his infancy, marked by the malignant influence of an abusive father ("Early Years"); (b) his time as a child in Spain, when he was happiest ("Childhood"); (c) his teenage years back in England, when he sporadically attended school, was bullied, and became increasingly immersed in gaming and subsequently the hacking community ("Early Teens"); (d) the hacking that resulted in his convictions, his return to Spain, the COVID-19

lockdowns, and the period leading up to his arrest (“Late Teens”); and (e) his life and development in prison since his arrest (“Prison Years”).

a. Early Years

Joseph was born in Liverpool, England on June 2, 1999. He is the youngest of three brothers born to his mother, Sandra. Each brother has a different father, and Joseph’s father has been estranged from him and his mother since Joseph’s birth. His brother Nathan was 13 when Joseph was born; his brother Jake, who had already been diagnosed with autism, was five.

Joseph’s first few years were marked by serious parental conflict. *See* Sandra O’Connor Stat., Ex. C.2, at 1-3; *see also* Agnes O’Connor Ltr., Ex. E, at 1. Joseph’s father did not want a child, and upon learning Sandra was pregnant, demanded she have an abortion. Sandra O’Connor Stat., Ex. C.2, at 1. When she refused, he attempted to abort the baby himself through beatings. *E.g., id.* (describing one occasion “involving punching her to the face . . . which resulted in her losing consciousness . . . [after which he] continued kicking her whilst on the ground”); *see also id.*, at 2 (noting he abused her “on her way to the maternity unit whilst in labor.”).

The attacks continued after Joseph’s birth, including vicious verbal abuse and persistent efforts to control Sandra and Joseph. Agnes O’Connor Ltr., Ex. E, at 1 (“his aim was to isolate Sandra completely from her family and friends”); *see also* Sandra O’Connor Stat., Ex. C.2, at 2 (noting the police discovered “listening devices in her home to monitor her and be aware of her contacts and locations.”).

Sandra was Joseph’s sole provider, working as a lawyer while serving as a full-time, single mother to her three children while continuing to face horrific abuse. *Id.* She reported Joseph’s father to the police on multiple occasions over the first few years of Joseph’s life but with little effect. Agnes O’Connor Ltr., Ex. E, at 1.

After a particularly vicious assault where Sandra suffered 17 separate head injuries, she decided to leave her other children (Nathan was in his final year at school; Jake’s father refused to allow him to move) and escape with Joseph to start a new life. Sandra O’Connor Stat., Ex. C.2, at 2-3; *see also* Agnes O’Connor Ltr., Ex. E, at 1 (“it was a difficult time for us as a family and severely impacted upon all [our] lives but we all agreed she had to give up her existing life.”).

Sandra successfully settled in southern Spain, securing a full-time position as a lawyer. Sandra O’Connor Stat., Ex. C.2, at 3. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] *Id.* Despite her best efforts, she also returned to Joseph’s father’s abuse. *Id.* She tried to shield Joseph from witnessing it, but the effects were evident—even as a very small child, he obsessively worried that something bad would happen to her. *Id.* Concerned for Joseph, after 18 months Sandra returned to Spain with him, this time intending to stay permanently. *Id.*

b. Childhood

The move was a good one for Joseph: he “enjoyed swimming, going to the beach . . . and he started to be more settled.” *Id.* But he remained a nervous, anxious child, brought about by his distressing first few years: “He displayed daily signs of anxiety that something bad would happen to his mother.” *Id.*

Joseph also began getting into trouble at school. His first teacher noticed how Joseph responded well to kind treatment, including “encouragement and praise,” but “badly to criticism and shouting.” *Id.*, at 4. When this teacher left the school, the

replacement teacher did not have the same appreciation of Joseph's nature, and Sandra "was often called to the school." Sandra O'Connor Ltr., Ex. C.2, at 4.⁵

Outwardly, it seemed Joseph made friends. His cousin, Niamh, who visited Joseph and Sandra on her childhood family holidays, recalled that Joseph "had lots of friends and was very popular in the enclosed complex where he lived He was very happy living in Spain." Niamh McGuinness Ltr., Ex. H, at 1. A childhood friend, Fatima Taleb, who also spent her holidays at the same complex, notes that Joseph was "always so kind and caring" and would invite other children into his home: "it was not unusual for him to be playing in the pool, but his friends would be in his home playing in his bedroom." Fatima Taleb Ltr., Ex. I, at 1.

[REDACTED]

Joseph's first obsession was with football card collecting. Despite him having no interest in football, he compulsively collected cards, spending endless hours sorting them. Joseph O'Connor Stat., Ex. B.1, at 1. ("I did this for years.")

His other great obsession, which was to dominate the rest of his childhood, was gaming. Joseph first started playing computer games at age 7 or 8. Sandra bought him a “Gameboy” and he immediately became fixated. *Id.*, at 2. He would play for hours, day and night, trying to progress through the levels on his games to the exclusion of all else. *Id.* Fatima recalls that Joseph only wanted “to just play on his Gameboy,” and he would habitually do it “alone.” Fatima Taleb Ltr., Ex. I, at 1.

c. Early Teens

In the wake of the 2008 financial crisis, Sandra lost her job in Spain. After living off savings for two years, she and Joseph, aged 10, returned to England. Sandra O’Connor Stat., Ex. C.2, at 4-5.

The next phase of Joseph’s childhood brought two important changes: his unhappy experience at secondary school, where he was bullied; and his further retreat into himself and the online gaming world. Sandra O’Connor Ltr., Ex. C.3, at 1 (“Joseph’s real problems occurred on returning to England from Spain”); Brian and Sharon McGuinness Ltr., Ex. F, at 1 (“Joseph’s difficulties really began to materialize in his early teenage years, when it became apparent he shared no interest with his peers or their topics of conversation”); Joseph O’Connor Stat., Ex. B.1, at 3 (“my time outside school was all about gaming”).

i. Bullying

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On one occasion, 13 teenage boys surrounded Joseph's house and enticed him out to play in the local park with them, when in fact they planned to attack him. Joseph O'Connor Stat., Ex. B.1, at 3; *see also* Sandra O'Connor Stat., Ex. C.2, at 5. He only because while he was on his way there, one of the boys warned him what was about to happen. Joseph O'Connor Stat., Ex. B.1, at 3 ("I went home and was visibly shaking, and they came back and pelted my house and my mum's car with eggs."); *see also* Sandra O'Connor Stat., Ex. C.2, at 5 (describing same incident).

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Even at home, Joseph became increasingly distant and withdrawn. Molly McGuinness Ltr., Ex. G, at 2 ("it was apparent that Joseph was extremely introverted and would prefer his own company over the company of others."); *see also* Brian and

Sharon McGuinness Ltr., Ex. F, at 1 (“he began to feel safe only in his home environment and avoided school and life outside his home”).

The bullying dominated Joseph’s experience of school and he performed poorly academically. *Id.* His schooling was also sporadic. Sandra O’Connor Ltr., Ex. C.3, at 1 (“He attended 5 schools in a period of 5 years ... The necessity to change schools all revolved around his being different or abnormal as some teachers would describe him”). Despite his obvious intelligence, things got so bad that Joseph spent months at home pending a “managed move” to a Pupil Referral Unit (“PRU”) for children who are not able to attend a mainstream school. Sandra O’Connor Stat., Ex. C.2, at 6.

At 15, Joseph left the PRU and for the last year of compulsory education worked from home, attending school only for exams. Sandra O’Connor Ltr., Ex. C.3, at 3. He then chose not to pursue the traditional path to university, but instead enrolled at a lower-status “college” for two years.⁷ Joseph O’Connor Stat., Ex. B.1, at 4. He recalls how he “struggled in the weeks leading up to attending college,” and “the day of enrolment was particularly painful for me”:

My mother attended with me as I would not have been able to attend and speak to the staff about potential courses alone, but they were helpful and dealt with me gently after my mother explained I was feeling anxious. College was a much better fit for me than school as the classes were smaller and the teachers were more friendly and helpful. So, although I did not really enjoy it, I didn’t hate going . . .

Id.; *see also* Sandra O’Connor Stat., Ex. C.2, at 6.

Following college, Joseph opted not to try for university. Joseph O’Connor Stat., Ex. B.1, at 5 (“I did not want to have to start [at] another new place with

⁷ Joseph attended a BTech college, which is a further education college in the UK where students may study after finishing school at age 16. *See* Sandra O’Connor Ltr., Ex. C.3, at 3.

strangers”). Instead, he devoted himself exclusively to his gaming obsession, which in the years since Spain had moved online and come to dominate his life.

ii. Gaming

Gaming overwhelmed Joseph’s teenage years. Joseph O’Connor Stat., Ex. B.1, at 3-5. He played every moment that he was not in school. *Id.*; *see also* Agnes O’Connor Stat., Ex. E, at 3 (“He was always playing on his computer and his visits to me reduced to the extent he never came at all, Sunday lunches were completely missed, even birthday celebrations”). Nathan O’Connor Stat., Ex. D, at 2 (“Since at least the age of 14 he has spent 16-18 hours a day in his bedroom on these online games. It was the only topic of discussion”).⁸

With his hyperfocus, Joseph excelled at gaming, especially the hugely-popular and hotly-competitive game called “Counter-Strike.”⁹ A lonely, bullied, autistic teen with no capacity to understand why his life away from his computer was so painful, Joseph found he was valued and appreciated online. Joseph O’Connor Stat., Ex. B.1, at 3. He posted videos of himself playing Counter-Strike on YouTube, and he was so successful at “unlocking levels” (*i.e.*, progressing further in the game) that he sold them to other users for between \$20 and \$100, with the price depending on the difficulty of achieving the level. Sandra recalls how Joseph “partook in gaming tournaments, he created gaming video[s] and tutorials, he proudly showed me, he live streamed his gaming and his online viewers totalling [sic] on occasions 25 thousand viewers.” Sandra O’Connor Ltr., Ex. C.3, at 9.

⁸ A series of multiplayer first-person shooter video games in which teams of terrorists battle to carry out an act of terror, while the counter-terrorists try to prevent it. It is considered to be one of the most influential first-person shooter games in history, with a large and competitive gaming community.

Joseph developed online friendships with other gamers and could be social in this context, but it disconnected him further from the real world. Niamh McGuinness Ltr., Ex. H, at 2 (“He would always stay in his room and always be gaming, I believe this became an obsessive behaviour and made him feel at ease”). His uncle, Brian, the closest Joseph had to a father, writes about how he worried that this dynamic led Joseph “to trust and befriend strangers online as opposed to the real world.” Brian and Sharon McGuinness Ltr., Ex. F, at 1.

Initially, Sandra was happy Joseph was safe indoors gaming, away from the bullying. Sandra O’Connor Stat., Ex. C.2, at 7. Agnes similarly notes how she “did not really understand this gaming business, but I was aware it was what children of his generation did, so I wasn’t too concerned.” Agnes O’Connor Ltr., Ex. E, at 3. She “could hear him sometimes chatting and laughing” with friends online, and she “was happy to hear this as he had been so troubled and withdrawn that I felt he could get back on track and perhaps be less isolated.” *Id.*

But Joseph’s endless gaming further inhibited his development of life and social skills—he remained trapped in social amber. Niamh McGuinness Ltr., Ex. H, at 2 (“Joseph was content gaming and did not see typical teenage behaviour activities such as ‘parties or hanging out with friends’ fun and thought they were pointless”); *see also* Molly McGuinness Ltr., Ex. G, at 2 (“it was apparent that Joseph was extremely introverted and would prefer his own company over the company of others”).

His family started to accept as normal that Joseph would not take part in anything. Sandra recalls how “he had totally disconnected with the world outside gaming. He never attended family events or even joined family who were visiting . . . His only real contact was with his mother who was the only person he could chat with and not feel discomfort.” Sandra O’Connor Stat., Ex. C.2, at 7; *see also* Niamh

McGuinness Ltr., Ex. H, at 2 (“Joseph would come to the occasional family gathering but was very quiet and not engaged. You could tell by his body language; he did not want to be there”).

Even so, Joseph’s family failed to comprehend the extent to which he had been absorbed into the online world. They also did not know the increasingly toxic nature of the community that came to surround him. Sandra O’Connor Ltr., Ex. C.3, at 1 (“I wish I would have had more insight to this online gaming world he entered.”). Childish, teenage boy behavior pervaded Joseph’s online community. There was an insidious culture of “tit-for-tat,” where small arguments often led to serious consequences. Joseph O’Connor Stat., Ex. B.1, at 6. On the more innocent end of the spectrum, gamers would report each other to the gaming platform to suspend the accounts of their competitors, a “tactic to stop winning successful teams competing or it could be a personal matter after arguing with someone”. *Id.* One step up was “doxing,” where someone published another user’s personal details online. This happened to Joseph, with someone posting his address, piercing his online anonymity and exposing him to the hackers who frequented the advanced gaming sites. *Id.*, at 7. He and his family were also repeatedly the victims of “swatting,” the most serious form of reprisal, in which online adversaries made phone calls causing emergency services to descend on their opponent’s home. Agnes O’Connor Ltr., Ex. E, at 3 (police officers “advised me that a person had made serious threats that someone was harming people in my house”); Sandra O’Connor Ltr., Ex. C.3, at 4 (recalling “hoax calls that I was the victim of being brutally raped by his father or that I was being stabbed to death”).

While the real life consequences were serious—nothing says “not a game” like law enforcement involvement—it was, in fact, all part of the game that consumed Joseph’s life. Agnes explains that the police informed her gamers were

“using these calls as acts of revenge against opponent gamers without realising the consequences.” Agnes O’Connor Ltr., Ex. E, at 4. “[T]hese gaming platforms even provided scripted material to use to ensure emergency services attended.” *Id.*

Joseph’s first “wake-up call” about the seriousness of his online environment occurred at age 16, when gamers from Liverpool threatened him and the situation quickly escalated:

They posted my address online, and stated they knew which college I attended. That was the first time I realised that I was not anonymous and not simply a username but someone who could be traced. I was threatened that they were going to come to my home and assault me. I was very worried as I had experienced a similar experience at school, which had led to my total disengagement with the school and its pupils thereafter. The following day my mum collected me from college, and I explained the situation. My mum tried to reassure me, saying they were only idle threats. However, later that evening, a video showing my home and a boy knocking at my door and my mum opening it, was live streamed online. My mum told them to go and immediately called the police, [w]hilst we were waiting they knocked again, and I could see them being abusive to my mum, so I went downstairs and outside to speak with them . . . When I got outside and went to approach one person, another person was hiding and appeared with a weapon in his hand as did another person. Whilst this was happening one of the 4 was live streaming to online users. My mum came out and told them to go . . . My mum was screaming and kept saying the police are coming. I could hear her crying on the phone saying help us, where are you? She ran in and came out with metal poles and gave me one and said hit him and she grabbed the other guy [who was holding] a bat who was threatening to smash her head in. They were shocked at this and ran away just before the police arrived.

Joseph O’Connor Stat., Ex. B.1, at 7.

d. Late Teens

In his late teens, Joseph started to associate with hackers in private chatrooms. Joseph O’Connor Stat., Ex. B.1, at 6. He met these users in the gaming community; there were many and they were mostly of a similar age. *Id.* The springboard, for Joseph, was through his skills playing Counter-Strike; he was so

good at the game that he unlocked the “cheat” version alongside other talented gamers. To Joseph, this was a social group where he felt accepted and comfortable, like an advanced version of the gaming community. Joseph explains:

There was like a hierarchy in the gaming community. I was introduced to hundreds of gamers over the years and met what I used to class as friends, who were genuine gamers like me, but others were hackers. They would tell stories about their activities which seemed like a game, and I was impressed by them.

Id.

They continued playing games, but the progression to advanced gaming and hacking placed Joseph in a far more toxic male teen culture, where computer skills, risk-taking and bravado were prized, and real life consequences beside the point.

And the point was clear—to earn credit and respect by showing off skills and taking risks. *Id.* (“things they did were exciting, and they would brag about their roles”).

A popular forum for hackers is the social media platform, Discord.¹⁰ Sandra O’Connor Ltr., Ex. C.3, at 8.

Hackers frequently discussed—and even filmed—the commission and fruits of their crimes, often posting videos or screenshots to show off their brazenness.

Joseph O’Connor Stat., Ex. B.1, at 9 (“They would brag about their exploits and show their bitcoin balances displayed on screen to show it was true.”).¹¹ No thought

¹⁰ With reference to press reports, Sandra notes how this platform is “completely unregulated ... but now is increasingly being mentioned in the media in relation to other criminal activities and prosecutions and without doubt will feature in many more in the future.” Sandra O’Connor Ltr., Ex. C.3, at 8.

¹¹ See, e.g., *Leave No Trace: How a Teenage Hacker Lost Himself Online* ([THE GUARDIAN](#), October 14, 2021), describing the hacking activities of a Dutch teenager, Edwin Robbe, including how he would tell his online friends about his hacking exploits, “who didn’t believe him and demanded evidence”; see also “From Hacking \$4.1 Million to Prison” YOUTUBE (Mar. 11, 2022), a video about Graham Ivan Clark, available at: <https://youtu.be/1qsTgOpAIdw>; Casual discussions about crypto hacking “exploits” are easily found on various forums and message board. See, e.g., https://www.reddit.com/r/Bitcoin/comments/1wtbiu/how_i_stole_roughly_100_btc_from_an_exchange_and/ (a publicly available forum post describing an exploit that a hacker used to withdraw 100 BitCoin from a cryptoexchange).

was given to the personal consequences, let alone the consequences their actions caused to others. And for tunnel-vision Joseph, real life consequences were nowhere near his radar. *Id.*, at 6 (“It was just a game, nothing seemed real, it wasn’t actual money, and it was at the time funny exciting [sic] and just an extension of being part of that online world.”)

It was in this context that Joseph came to be involved in the cryptocurrency theft. We discuss the circumstances of this and the other offenses below in Part B, but in terms of Joseph’s personal development, it was a watershed moment. *Id.* at 6. Joseph’s relationship with his co-conspirators soured quickly and he received death threats regarding the stolen funds. To Joseph, the threats were real and he feared for his life. He would not leave the house, but received a video “showing where I lived and a person in the video telling me they were coming for me.” Joseph O’Connor Stat., Ex. B.1, at 13.

Sandra and Joseph reported the threat to the police. *Id.* But Joseph was “still fearful and felt I had really got myself into terrible trouble.” *Id.* Sandra had already made plans for them to return to Spain, but they hastened their departure in response to the threats. Sandra O’Connor Ltr., Ex. C.3, at 4. Joseph describes the incident as his “wake-up call.” He had learned that what he was doing was not a “game,” but dangerous and harmful. Joseph O’Connor Stat., Ex. B.1, at 13. He vowed that this life was not for him and therefore, in his new life in Spain, he would have no more part in any thefts.

i. Return to Spain

Joseph was turning 19 when he and Sandra moved back to Spain. He had no plans to pursue further education and he did not have a job. In short, he had nothing to distract him from his gaming. *Id.*, at 8.

With so much time on his hands, Joseph immersed himself in his online world to an even greater extent. Joseph O'Connor Stat., Ex. B.1, at 8 ("I had moved country, but I was living an identical life to the one I had in England. I stayed awake all night playing games and slept all day.") He would never leave the apartment, except to occasionally go swimming in the communal pool. *Id.*

Joseph continued to socialize with other gamers and hackers in the bubble of his online community. He was proud of his reputation and wanted to increase his "following." *Id.*, at 10. One way to do this was to hack into celebrity accounts and send "shout-outs" to the hacking and wider gaming community. *Id.* Joseph recalls that one of his online friends "had been hacking celebrities for years long before I knew him—he was well known for this He would add his online username on the celebrities' page and something funny and give mentions to other friends, including me, so others could see he had hacked the account." *Id.*¹²

ii. COVID-19 Pandemic

When the COVID-19 pandemic hit in early 2020, Sandra was in England and initially could not travel to Spain under the lockdown restrictions.¹³ Joseph was therefore alone for an extended period. Sandra O'Connor Stat., Ex. C.2, at 8. As Joseph was incapable of self-care, Sandra arranged for a neighbor to act as his housekeeper—buying groceries, doing laundry, cooking, and cleaning the apartment. *Id.* Agnes recalls that Sandra "was out of her mind worrying about Joseph's inability to look after himself," and that she had to employ the neighbor to assist "as she knew he would be overwhelmed by a simple task." Agnes O'Connor Ltr., Ex. E, at 5.

¹² We shall cover Joseph's involvement in these offenses further below.

¹³ Spain had closed its borders, and although Sandra had applied for a residency permit, she had not yet received it, and therefore could not travel to Spain. *See* Joseph O'Connor Stat., Ex. B, at 8.

For Joseph, the pandemic was a nullity—he was a hermit before, and the only change lockdown brought was the absence of his mother. Molly McGuinness Ltr., Ex. G, at 4 (“Joseph did not suffer in lockdown, it made zero difference to his life. . . . [H]e never left his home at all, his life was already being lived this way.”) His computer use was constant. *Id.* See also Joseph O’Connor Stat., Ex. B.1, at 8; Sandra O’Connor Stat., Ex. C.1, at 5-6, Ex. C.2, at 8; Agnes O’Connor Ltr., Ex. E, at 5; Niamh McGuinness Ltr., Ex. H, at 2-3.

Sandra secured a new apartment in Estepona, which would be closer to Gibraltar where she intended to work. Sandra O’Connor Stat., Ex. C.2, at 8. The apartment was in a secluded area, and Joseph’s only contact with the outside world was with a new housekeeper Sandra hired to care for him. *Id.* This was how Joseph spent the months of lockdowns. [REDACTED]

[REDACTED]

[REDACTED]

Joseph’s hermit-like existence was so severe that the Spanish National Police informed Sandra after Joseph’s arrest that they had been conducting surveillance on the apartment for four months but in all that time they had not seen him: he had been sitting inside at his computer. Sandra O’Connor Stat., Ex. C.2, at 9. Agnes recalls that a few days before Joseph’s arrest, when the COVID-19 restrictions had eased, she travelled with Joseph’s aunt, Sharon, to see Sandra and Joseph in Spain. “He literally came out of his room [and] hugged me . . . said he was glad I was alive.” Agnes O’Connor Ltr., Ex. E, at 5. He also, however, explained that he “was in a game and it was important,” and returned to his room. *Id.*

e. Arrest and Imprisonment

Joseph’s arrest had a profound effect on him.

Joseph's 23-month incarceration has been extremely hard on him. Sandra pleads that, while no one likes prison, for some people the experience is "beyond punitive." Sandra O'Connor Stat., Ex. C.1, at 6. Brian too notes how Joseph's incarceration "has been nearly two long years," but that "in Joseph's world it must feel like 10." Brian and Sharon McGuinness Ltr., Ex. F, at 2.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

i. Impact of Incarceration

While brutal, prison has also had a positive and important effect on Joseph. Removed from his computer, it has allowed him to disassociate himself from his former gaming life, and to mature and develop. While he had already vowed, over

¹⁵ Odin Kristoffersen Fagervold is a 19-year-old Norwegian student. In March 2022, when he was aged 18, he was on holiday in Malaga and arrested on a drug offense. He remained in prison for eight months, until his release in November 2022. Odin immediately made a connection with Joseph, they became friends, and Odin has stayed in touch with Joseph since his release. *See* Odin Kristoffersen Fagervold Ltr., Ex. J, at 1 to 4.

¹⁶ A friend describes Joseph's ties to Sandra like a "stamp on an envelope." *Id.*, at 1.

two years before his arrest, not to engage in any further hacking for theft, he has since come to realize the gravity of his other crimes.

Odin and Harry, Joseph's friends from his time in Málaga prison, note how he treated them with kindness and respect. Eighteen, far from his home in Norway, unable to speak Spanish, and in prison for the first time, Odin states he:

tried to distance myself from mostly everyone on [my] first day, but I would soon realise I didn't have to hide from Joseph . . . [who] always told me if I needed anything I could speak to him, and so I did . . . He helped me massively building my network there by introducing me to his friends.

Odin Kristoffersen Fagervold Ltr., Ex. J, at 2.

Harry, Joseph's former cellmate, who is deaf, illiterate, can only read the lips of people speaking English with his own northern English accent, and nearly twice Joseph's age, found the experience of imprisonment in a foreign country so overwhelming that he was placed on suicide watch. Harry Meadows Ltr., Ex. K, at 2. "Then I meet (sic) Joseph He approached me and began to speak to me asking if I was OK Joseph, as I became (sic) to realize during my time in prison was so well liked by the other inmates and Prison Officers." *Id.* Harry explains how Joseph introduced him around the prison, completed Harry's forms, and helped Harry call his mother: "Joseph undertook this role until my release, willingly with patience and showed a genuine interest in my family." *Id.*¹⁷

Harry observes of Joseph's character:

The help and support were selfless without expectation of anything in return and that is truly remarkable, especially as he is so young. It is obvious that because of his previous lack of real-life social interaction he is almost childlike, like a teenager but with an unusual strange mix of maturity in the areas that are important. He is very trusting which can be to his disadvantage

¹⁷ On his release, Harry was without money, support or the ability to communicate in a foreign country. Harry Meadows Ltr., Ex. K, at 4. "I would have been left destitute on the streets and homeless." *Id.* But "Joseph as always came to the rescue and contacted his mum and had her collect me from the prison." *Id.* Sandra proceeded to help Harry with all he needed, including accommodation, funds and travel.

as he believes what people say is the truth, but I think he was learning that this is not always the case especially prisoners. He is a kind and generous soul to all he encounters, respectful[,] considerate and helpful. His help is given without being asked for . . .”

Id., at 5.

Joseph’s 23-month incarceration has been bewildering and terrifying, but it has also provided the “time out” he needed to reflect on his life and his future, to appreciate how he lost all perspective, and to learn—and regret—that his actions had real and serious consequences. As Molly explains:

His arrest as far as it has been terrible for him, may be the best intervention in living his life more productively in the future. He now knows as an adult he can do things and interact and what he endured at school and problems with peers is no longer a problem.

Molly McGuinness Ltr., Ex. G, at 4.

ii. Sentencing

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

3. Joseph's Nature and Personality

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

• [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

But there is another side to him, too. Nathan notes how Joseph:

[C]ares deeply for his immediate family and I believe he loves us very much. He may find it difficult to show this, but his gentle and caring nature shines through if you spend enough time with him.

Nathan O'Connor Stat., Ex. D, at 1.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Brian's daughters, Molly and Niamh, also emphasize Joseph's caring nature. Molly explains that as she got older, she learned to appreciate Joseph's condition and realized that:

[T]here is not a mean bone in his body, in fact the opposite, he is the most caring kind and gentle person. My dad has a similar nature and Joseph has always shared a good relationship with him. They are both quiet and we laugh as they sit together sometimes not speaking for hours but are comfortable together . . . Joseph is not demonstrative with his emotions at all, whether sad or happy, he comes across difficult to read but once you know him, you will see he is kind, considerate, loyal and gentle but a defender of anyone in need.

Molly McGuinness Ltr., Ex. G, at 2-3.

Niamh similarly describes Joseph as "a very compassionate and caring person. Joseph would make sure the people around him are okay without him even realising." Niamh McGuinness Ltr., Ex. H, at 2. Niamh explains how "Joseph does not like or understand a person who is a bully. He accepts people for who they are." *Id.* Molly believes that Joseph finds it easiest to display his compassion for animals—"Joseph is such a lover of animals, that I believe he prefers them to people." Molly McGuinness Ltr., Ex. G, at 3; *see also* Niamh McGuinness Ltr., Ex. H, at 3 ("He is known for finding stray animals and bringing them home to Sandra to look after, he thinks this is normal . . .").

Joseph's awareness of those "in need" and his hatred of bullying reveals itself in the real care and consideration he provides for "outsiders," particularly those who are bullied or victimized. Agnes describes how Joseph as a child "was especially

kind to anyone who he identified as being vulnerable, whether elderly people, shy children or children with special needs.” Agnes O’Connor Ltr., Ex. E, at 2. Agnes recalls an occasion during his early schooling in Spain, where Joseph befriended a boy with learning difficulties who was the victim of bullying: “Joseph took it upon himself to be his protector against anyone who was unkind to the boy . . . I felt proud I had such a warm, caring and kind grandchild.” *Id.*

Molly recalls how Joseph intervened at school in England to help an Asian classmate who was receiving racial abuse. Molly McGuinness Ltr., Ex. G, at 2. Molly notes that “Joseph could not understand” the abuse: “[He] would intervene at school and did not care of the consequences, which were many, due to Joseph’s way of thinking only in a black and white manner of what is right and wrong when treating a person, he attempted to stand up for his friend.” *Id.* Agnes notes that “[t]his side of him never changed, he would defend anyone . . .” Agnes O’Connor Ltr., Ex. E, at 2.

B. The Nature and Circumstances of the Offenses

Joseph pled guilty to all the conduct charged at the first opportunity following his extradition to the United States.¹⁸ He has fully accepted responsibility for his

¹⁸ Upon hiring current counsel, Joseph began pursuing the plea agreement to which he ultimately pled—one that would consolidate his two cases in New York, allowing his mother to be near him. (At

crimes. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1. SDNY Indictment

a. Counts One, Two and Four

Joseph pled guilty to participating at age 18 in the conspiracy to steal cryptocurrency from a Manhattan-based cryptocurrency company with some of his former online “friends,”¹⁹ and the subsequent money laundering of the proceeds.

Joseph introduced other participants in order to carry out the hack, he looked into the company’s accounts following the hack, he received a portion of the stolen cryptocurrency, and he engaged in the money laundering of the proceeds. Joseph admits that he was excited to be part of it at the time. Joseph O’Connor Stat., Ex. B.1, at 13. He was especially fascinated by analyzing the company’s security measures and could not believe how easy it was to access the cryptocurrency accounts. *Id.* Joseph failed to appreciate the consequences of his actions and the seriousness of the crime. *Id.*, at 10. He thought of the company as an impersonal business with impersonal assets. He now realizes this was wrong, and that real

the time, Sandra was continuing to practice and while she needed to be near Joseph, she could not serve her clients from the West Coast (she ultimately found the plan unworkable, but has nevertheless been living in New York since Joseph’s extradition.) As such, while Joseph was eventually extradited, he had offered to waive extradition and return to the U.S. to face the charges more than six months before.

¹⁹ The word friends appears in quotes since, for example, Joseph never knew any of these people’s names or met them in real life.

people's money was at stake. *Id.*

Joseph also learned a lifelong lesson from this crime. As noted above, there was a dispute over the stolen cryptocurrency, and its escalation—with Joseph receiving a death threat targeted at his home—terrified him. He realized that he was in over his head, that it all was real, and vowed to never again participate in any further theft scams. *Id.*

2. NDCA Information

a. Count One

Joseph pled guilty to participating in a conspiracy to improperly access Twitter accounts in July 2020. He received widespread, international press attention for this, even though his role was peripheral.²⁰

Joseph did not plan or orchestrate the hack, or even know about it until he was contacted by one of the perpetrators, who wanted to know whether Joseph was interested in purchasing a unique Twitter account.²¹ *Id.*, at 11. He explored the possibility and asked the perpetrator to allow him to look at some accounts, although he eventually did not choose to proceed with the purchase. *Id.*, at 11, 13.

Joseph did, however, request and receive proof that the perpetrator had access to an account he considered purchasing by having him change the name on the account—the act by which he caused the intrusion. *Id.*, at 11. Joseph also received a screenshot of Twitter's internal controls from the perpetrator, which Joseph thought was cool and thus published on his social media page, advertising to the world his involvement in a major, criminal breach of Twitter's security. *Id.*

²⁰ See, for instance, THE GUARDIAN, which published an article on May 10, 2023: “Twitter hack: UK man pleads guilty to hijacking accounts including of Joe Biden and Elon Musk.” Available at: <https://www.theguardian.com/technology/2023/may/10/twitter-hack-uk-man-pleads-guilty-to-hijacking-accounts-including-of-joe-biden-and-elon-musk>.

²¹ Certain accounts, like ones with single numerical codes, are particularly desirable in the online gaming community.

Joseph had no idea the storm this might (and did) cause, including the intense publicity and criminal investigation that have come to dominate his life. *Id.*, at 11, 13. He has since learned his lesson, and deeply regrets his involvement.

b. Count Two

Joseph pled guilty to accessing Victim One's TikTok account on August 14, 2020. Like the Twitter hack, this intrusion post-dated Joseph's return to Spain, when he vowed not to have involvement in further theft scams. But Joseph was not looking to steal information or gain anything of monetary value. *Id.*, at 14. Instead, he hoped to boost his profile in the gaming and hacking community, where, as noted, status could be gained by accessing celebrity accounts and using them for "shout-outs" to others immersed in that world. *Id.* ("online friends had also bragged about doing similar . . . I was happy being part of a group and happy to go along with things at the time").

Joseph did not intend the hack to be personal, but now sees it was and regrets invading Victim One's privacy.

c. Counts Three, Four and Five

Joseph also pled guilty to accessing Victim Two's Snapchat account in June 2019, around the time of his move back to Spain (again, after Joseph had vowed to have no further involvement in theft scams).

His purpose in accessing the account was the same as for Victim Two—to give a "shout-out" from the hacked account to up his status in the gaming/hacking community. *Id.* Matters escalated, however, after he and his friends obtained access. Joseph came across nude photos of Victim Two while looking through the account, and sent them to his accomplices. *Id.*, at 10-11. One of them then made the extortive threat. *Id.* Joseph was not aware that he was going to do this, and wanted no part in it, but Joseph caused and has accepted responsibility for the extortion. *Id.*, at 10-11,

14. He understands he should never have circulated the pictures to his “friends,” and he is deeply sorry for and ashamed of the emotional distress he caused Victim Two.

d. Counts Six and Seven

Joseph pled guilty to making communications containing a threat to injure Victim Three on or about July 16, 2020, and engaging in a course of conduct that caused and would reasonably be expected to cause substantial emotional distress to Victim Three.

Joseph met Victim Three in a hacking chatroom frequented by Joseph and his friends. *Id.*, at 11-12. Following a brief online “romance,” a conflict emerged. *Id.*, at 12. As noted above, threats were common “tit-for-tat” measures in these forums. The situation escalated on both sides, and Victim Three posted Joseph’s intimate picture and messages in the chatroom, which made things more hostile. *Id.* Victim Three stated that Joseph would be hacked. Joseph responded disproportionately to her threat to hack him by “swatting” Victim Three via false 911 calls (as noted above, common “scripts” of language were used for these calls to ensure the emergency services responded—a practice Joseph followed). *Id.* He also directed towards Victim Three and her family truly hateful, violent, and misogynistic threats in keeping with the online culture that was his reality for the better part of his young life. *Id.*

The hateful language used in the swatting calls, as well as in the threats to Victim Three and her family, are horrifying. It is why we note Joseph used scripts he found online, and that this was a common, albeit extraordinarily reprehensible practice, to which he was not only exposed in his milieu, but was the victim of multiple times at a young age. [REDACTED]

[REDACTED]

[REDACTED]

We implore Your Honor to view

the language in the context Joseph did—aping what he saw in the culture in which he lived without the capacity to meaningfully understand its effects and impact.

Joseph cannot justify his actions. He is deeply sorry for and regretful of them. The situation rapidly escalated, he became defensive, overreacted in a performative way for an audience of online “friends,” and behaved without consideration of the consequences. *Id.*, at 12, 15.

C. A Sentence Of Time Served Satisfies The Goals of Punishment and Deterrence

1. Joseph Has Been Punished Severely

As detailed above, Joseph has been punished severely for his crimes. He has spent the past 23 months in prison. [REDACTED]

[illegible]

2. Deterrence

a. Joseph Poses No Risk Of Recidivism

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

This is demonstrated in Odin’s account of Joseph encouraging another inmate to “start planning a law-abiding life and obtain employment.” Odin Kristoffersen Fagervold Ltr., Ex. J, at 3. It is also shown through Joseph speaking with Odin “at length about the dangers of drug use and irresponsible alcohol drinking . . . [he] encouraged me to return to my life, continue with my studies and value my family and friends and to behave.” *Id.*, at 3. Expressed in his own idiosyncratic way, this is evidence of Joseph’s “wake-up call”—and how he is eager to share his realizations. Sandra notes that Joseph has spoken about helping other gamers like himself avoid falling into the trap of social media platforms like Discord. Sandra O’Connor Ltr., Ex. C.3, at 9.

Molly explains that out of his ordeal, Joseph “has broken away from that reclusive lifestyle and speaks optimistically about his future.” Molly McGuinness Ltr., Ex. G, at 3. His childhood friend, Fatima, notes how she is seeing the real Joseph again: “Joseph still has the same amazing qualities he had when [he was]

²² Sandra has and will continue to devote her life to Joseph’s care. She has been a constant source of support for Joseph from his arrest and throughout his incarceration. She has made great sacrifices to be there for him, including moving to New York, without employment and far from her family and friends, to be close to him pending sentencing.

younger,” explaining how “his isolation when he returned to England led to him losing himself and taking the wrong path and not fulfilling the potential he had”:

We have spoken extensively and he is excited about his future and very regretful about his past and his offending, especially as he is upset that he has caused Sandra to put her life and job on hold whilst he is in this situation, and genuinely gets upset when he talks about the impact it has had on her and his family when it was all down to his stupidity and inability to see anything in life other than gaming and his online friends . . . I believe Joseph can lead a much better life and this experience is the catalyst for a new path for him, which will allow him to be more social and actively involved in society as a productive member without gaming and online “friends”.

Fatima Taleb Ltr., Ex. I, at 2.

Sandra has assisted Joseph in securing a job for his release. Resolve Energy, a company based in Liverpool (U.K.), that specializes in business energy and has worked extensively with prisoners in finding gainful employment, has agreed to offer Joseph the position of Web Developer Apprentice at a starting salary of £15,000 per year. Resolve Energy Emp. Offer, Ex. L.2, at 1. Resolve Energy explain that Joseph’s:

current skills will be much appreciated in our Development team We believe we can hone and further develop his skills in a workplace that has vast experience working with people in Joseph’s situation The Development team is a major focus for our expansion over the next few years, which will mean for Joseph there will be lots of promotion opportunities once he is settled and working through his apprenticeship. Given our experience over the last 8 years in working with prisoners I think we are a perfect home for Joseph to rehabilitate and get his life back on track.

Resolve Energy Ltr., Ex. L.1, at 1.

With these pillars in place—lessons deeply learned, demonstrated growth, the return to his mother’s support, and a waiting job—Joseph is set to succeed. Or, put otherwise, and especially when paired with the severity of the punishment he has

absorbed to date, he is set to never return to his old behaviors. Further jail time serves no beneficial purpose—Joseph has learned his lesson.

b. Joseph’s Prosecution Has Provided Significant General Deterrence

Further jail time, with the amplified punishment it carries and danger it poses, is also unnecessary to send a strong message of general deterrence. Joseph’s case has already drawn significant media attention. It was widely known that he was incarcerated pending extradition, and that he was extradited earlier this year to face the charges and pleaded guilty. The lessons could not be more clear: the government can and will track down and punish hackers. Indeed, if this had happened to someone else first with the same publicity, literal and logical Joseph would have known the risks, done the math, and not be before Your Honor for sentencing.

[REDACTED]

[REDACTED].

c. A Sentence of Time Served Will Provide Joseph With the Care He Needs

Section 3553(a)(2)(D) provides that the court “shall consider the need for the sentence imposed to provide the defendant with the needed educational or vocational training, medical care, or other corrective treatment in the most effective manner.”

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] As demonstrated by the letters and statements in support of this Memorandum, Joseph also has a small but very close

and supportive circle of family and friends, who have vouched to be present in Joseph's life to guide him and protect him. This is where Joseph belongs. It is a support system that will provide Joseph with the care he needs to continue to grow that his imprisonment began, and that has him poised to become a contributing member of society.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

D. The Kinds of Sentences Available

1. Incarceration in a U.S. Low Security Prison Would Be Dangerously Harsh, As Well As Disproportionate to Punishment for a U.S. Citizen

Bureau of Prisons ("BOP") policy requires all non-U.S. citizens to serve any sentence in a low, medium or high security facility. *See* BOP Program Statement 5100.08 at 50 ("A male or female inmate who is not a citizen of the United States . . . shall be housed in at least a low security level institution"). Federal prison camps ("FPCs"), to which a U.S. offender like Joseph would otherwise go, are unavailable. This means that Joseph would do much harder time than a U.S. citizen convicted of the same crime:

- Whereas FPCs are fenceless, low security prisons are surrounded by two perimeter barriers, each reinforced by multiple coils of razor wire, gun towers, and armed patrols. Inside, low security prisons employ extensive video surveillance and tightly control inmates' lives through, among other things, a minimum of five daily "counts" (including a count during the middle of the night), random pat-downs, and strip-searches whenever they are removed from the facility for a visit or health appointment. These prisons also frequently undergo unpredictably long "lockdown" periods during which inmates are confined to quarters and denied recreation, visitation and telephone calls.
- Compared with FPCs that typically house 100 to 400 inmates, low security prisons usually have between 1,200 and 1,500 (and often exceed their

designed maximum capacity). The overcrowding in low security prisons is extremely stressful for inmates and noise is constant. The size of these institutions and the ratio of staff to inmates virtually guarantee unsafe and unsanitary conditions (leading to widespread infectious diseases and violence).

See Sent’g Mem. at 21, *United States v. Conti*, 14-cr-00272 (S.D.N.Y. April 28, 2014) (ECF No. 229).

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Prison in the United States would also be excessively punishing for Joseph because he would receive no visitors for lengthy periods. His mother took the extraordinary step of suspending her legal practice and renting an apartment in New York to be close to Joseph until his sentencing. Sandra O’Connor Ltr., Ex. C.3, at 1. She cannot afford to continue this for a prison term, and will soon have to return to England for work. [REDACTED]

[REDACTED]

[REDACTED]

Finally, it is worth briefly noting that after completion of any further period of incarceration, Immigration and Customs Enforcement (“ICE”) will be required to immediately move Joseph to an ICE detention facility where he will be forced to await deportation back to the U.K. See 8 U.S.C. § 1226(c) (requiring detention of criminal alien upon completion of prison sentence); Sent’g Mem. at 13, *United States v. Takkas*, 15-cr-00252 (E.D.N.Y May 20, 2015) (ECF No. 730) (noting DOJ’s confirmation that foreign defendant “will be quickly bundled into custody by ICE

agents [following prison term] and locked up until he is deported”); *United States v. Ramirez-Ramirez*, 365 F. Supp. 2d 728, 732-733 (E.D. Va. 2005) (post-sentence immigration detention generally “mean[s] a further term of detention until his removal has been completed”).

Although Joseph would not challenge his removal, deportation can involve long delays. *See, e.g., Handa v. Clark*, 401 F.3d 1129, 1132 (9th Cir. 2015) (noting that five weeks transpired between arrest by ICE for visa overstay and removal to the U.K.). The conditions in ICE detention facilities are often worse than prison, and the experience serves as another amplification to the punishment of incarceration based solely on Joseph’s citizenship.²³

Taken together, further incarceration is not only unnecessary for Joseph, but will place him at undue risk from himself and others while unfairly being far harsher than incarceration for a similarly situated US citizen.²⁴

²³ A January 2019 DHS inspector general report on ICE detention contractors found “serious deficiencies such as significant understaffing, failure to provide sufficient mental health observation, and inadequate monitoring of detainees with criminal histories.” *Conditions in Migrant Detention Centres*, AMERICAN OVERSIGHT (May 23, 2023), <https://www.americanoversight.org/investigation/conditions-in-migrant-detention-centers>. Reports of overcrowding, unsanitary conditions, staff shortages, and lack of basic facilities like heat have been persistent. *See, e.g., US migrant centres: Photos show 'dangerous' overcrowding*, BBC (Jul. 2, 2019), <https://www.bbc.com/news/business-48842434>; Eileen Sullivan, *A.C.L.U. Says Immigration Detention Facility Should Be Shut Down*, NYT (Sept. 22, 2022), <https://www.nytimes.com/2022/09/22/us/politics/aclu-ice-immigration-detention.html>; Camilo Montoya-Galvez, *Watchdog recommends relocation of detainees from ICE facility, citing unsanitary conditions and staff shortages*, CBS NEWS (Mar. 18, 2022), <https://www.cbsnews.com/news/immigration-and-customs-enforcement-detention-center-watchdog-recommends-relocation-of-detainees/>.

²⁴ In addition, because Joseph faces deportation immediately following his sentence, he cannot take advantage of recidivism reduction programs ordinarily available to prisoners. Generally, a prisoner “who successfully completes evidence-based recidivism reduction programming or productive activities, shall earn time credits[.]” 18 USC § 3632(d)(4)(A). Usually “[a] prisoner shall earn 10 days of time credits for every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities.” 18 USC § 3632(d)(4)(A)(i). In addition, a prisoner determined “to be at a minimum or low risk for recidivating, who, over 2 consecutive assessments, has not increased their risk of recidivism, shall earn an additional 5 days of time credits for every 30 days of successful participation in evidence-based recidivism reduction programming or productive activities.” 18 USC § 3632(d)(4)(A)(i). Time credits earned in this way are applied toward prerelease custody or supervised release. *See* 18 USC § 3632(d)(4)(C). However, a prisoner who receives a final deportation order, as Joseph will here, is not eligible for pre-custody release and cannot apply the earned time credits. *See* 18 USC § 3632(d)(4)(E). As a result, a foreign citizen who will be deported after serving their sentence often serves an additional 2-3 months for each year of the sentence

2. Other Types of Punishment Are Available

a. Home Confinement

As an alternative to incarceration, the Court may impose home confinement as a condition of Joseph's release. Such a sentence would impose further punishment while sparing Joseph from prison in the United States and allowing him to be cared for by his mother.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

b. Community Service

A sentence of community service would also provide an avenue for additional punishment that could be easily monitored by probation regardless of where it takes place. Should the Court wish to pursue this option, we can readily identify charitable organizations near Joseph's home that will take him as a volunteer for the requisite number of hours.

E. The Sentencing Guidelines Range Should be Disregarded

As this Court has repeatedly proclaimed, courts must not presume a Guidelines sentence is reasonable, *e.g. United States v. Adelson*, 441 F. Supp. 2d

imposed. This additional imprisonment is particularly punitive here, as every additional month in prison represents a real risk to Joseph given his condition. *See* Ex. C.1 at 6.

506, 506 (S.D.N.Y. 2006) (Rakoff, J.), *aff'd*, 301 F. App'x 93 (2d Cir. 2008); *United States v. Gupta*, 904 F. Supp. 2d 349, 353 (S.D.N.Y. 2012) (Rakoff, J.), *aff'd*, 747 F.3d 111 (2d Cir. 2014), but must “make an individualized assessment based on the facts presented.” *Pepper v. United States*, 562 U.S. 476, 488 (2011) (“courts must ensure that the punishment will suit not merely the offense but the individual defendant”).

Driven by the loss amount of the Bitcoin theft (more than \$550,000) and a cascading series of two-point enhancements attempting to classify it (including two separately punishing sophistication enhancements), we submit that the range of 70 to 87 months makes this “one of those cases in which calculations under the Sentencing Guidelines lead to a result so patently unreasonable as to require the Court to place greater emphasis on other sentencing factors to derive a sentence that comports with federal law.” *Adelson*, 441 F. Supp. 2d at 506.

As detailed herein, application of those factors calls for a sentence of time served.

F. A Sentence of Time Served Will Not Create Unwarranted Sentencing Disparities

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

But most importantly, there can be no disparity because time served is the right sentence in *this case*. Courts have opted for time served based on a defendant's cognitive limitations and youth. But the truth is that there is no analog for Joseph. There can be no disparity because who Joseph is, the path that led him to Your Honor, and the one that stretches before him are singular. As stated at the outset, his story has been sad and easy to plot; the logic tracks. But his future is equally clear: Joseph has a great path before him, and his punishment to date has given him the break and perspective he needed to follow it.

More jail is unnecessary. We ask that you let Joseph return to his mother, his awaiting job, and a very different, bright future.

CONCLUSION

For the reasons set forth herein, we respectfully ask that the Court impose a sentence of time served and return Joseph to the care of his mother.

Dated: June 19, 2023

Respectfully submitted,

By: /s/ Jeffrey A. Brown

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